

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RONALD L. WINDERS

Plaintiff,

VS.

OHIO OPERATING ENGINEERS FRINGE BENEFIT PROGRAMS

Defendant.

Case No. C-1-02-459

(Judge Weber)
(Magistrate Hogan)

**AFFIDAVIT OF
RONALD L. WINDERS**

STATE OF OHIO)
)ss
COUNTY OF HAMILTON)

Now comes the Affiant, Ronald L. Winders, being duly sworn and cautioned, and for his Affidavit, states as follows:

1. My name is Ronald L. Winders.
2. I am the Plaintiff in the above-captioned case.
3. I am the son of the decedent, Ronald D. Winders.
4. I understand it has been alleged that my father, Ronald D. Winders, worked 40 hours in July of 2001.

5. I know for a fact that my father did not work any hours for Kokosing Construction Company or any company affiliated with the Ohio Operating Engineers at any time in July of 2001.

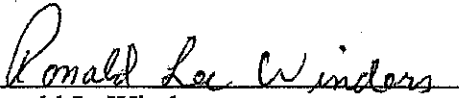
6. My father's last day at work was June 28, 2001. In fact, a retirement party was held for him at Kokosing Construction on that last day.

7. Following June 28, 2001, my father did not return to work at Kokosing Construction.

8. The Defendant has relied upon a document in the agreed administrative record bearing Document No. JR-0100, to assert that my father worked 40 hours in July of 2001. This document is captioned "matched pension hours" and is dated January 2, 2003. It reflects that there are 40 matched pension hours in July of 2001. This does not mean, however, that my father actually worked in July of 2001. Rather, this reflects that he was paid for his last paycheck in July of 2001 for hours worked in June of 2001. At Kokosing Construction, the payroll is always one week behind the time period for the time worked. Therefore, 40 hours in July of 2001 means he was paid for 40 hours that were actually worked in the last week of June of 2001. Thus, this document is entirely consistent with the fact that my father never worked after June 28, 2001.

9. I know for a fact that this is how Kokosing Construction handles its payroll because I am a member of the same union and I have also worked for Kokosing Construction.

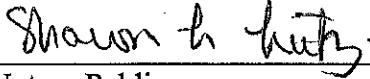
Further Affiant sayeth naught.


Ronald L. Winders

Sworn to before me and subscribed in my presence this 30th day of October, 2003.



SHARON LLUTZ
Notary Public, State of Ohio
My Commission Expires
December 22, 2006


Notary Public